

REMARKS

This is a full and timely response to the outstanding non-final Office Action mailed November 28, 2005. Upon entry of the amendments in this response, claims 1 – 47 are pending. In particular, Applicants have amended claim 1. Reconsideration and allowance of the application and presently pending claims are respectfully requested.

I. Claims 1 – 47 are Patentable Over *Majeti* in View of *Kawashima* in View of *Goode*

The Office Action rejects claims 1 - 47 under 35 U.S.C. §103(a) as allegedly being unpatentable over U.S. Patent No. 5,534,913 to Majeti (“*Majeti*”) in view of U.S. Patent No. 5,181,911 to Kawashima (“*Kawashima*”) and further in view of U.S. Patent No. 6,163,272 to Goode (“*Goode*”). For the reasons set forth below, Applicants respectfully traverse the rejection.

Independent Claim 1

Independent claim 1 recites:

1. In a cable data delivery network for delivering digital data to a host location upon a subscriber initiated request, an apparatus for authenticating that the subscriber is authorized to use said network, said apparatus comprising:
 - a network manager including at least one database of authorized users and a validation agent, said validation agent further comprising:
 - logic to authorize the subscriber to access a first communications path by comparing first subscriber authentication information with at least part of the at least one database, the first communications path providing at least a portion of connectivity between the host location and a head end of the cable data delivery network; and
 - logic to authorize the subscriber to access a second communications path responsive to the first communications path authorization***, by comparing second subscriber authentication information with at least part of the at least one database, the second communications path providing at least a portion of connectivity between the host location and the head end of the cable data delivery network.

(*Emphasis Added*). Applicants respectfully submit that claim 1 patently defines over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that the proposed

combination fails to disclose, teach or suggest the features emphasized in bold text above.

MPEP §2143.03.

For example, neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests the feature of “**logic to authorize the subscriber to access a second communications path**” as recited in independent claim 1.

The Office Action apparently agrees with Applicants’ remarks in the Amendment of September 8, 2005 that *Majeti* does not disclose authorizing “access” to a second communications path based on “second subscriber authentication information” as claimed.

However, the Office Action now alleges that *Goode* “provides a second authentication process where the user, if not authorized to access a specific portion of connectivity (restricted movie), must provide subscriber authentication information in the form a PIN in order to be authorized to used [sic] the second communications path (the path required to receive the movie).” (Office Action, pg. 5).

Applicants submit that authorizing access to “a second communications path” as recited in claim 1 is not the same as authorizing “access to the requested service” (col. 6, line 55 – 56), such as a “restricted movie,” to be delivered using the path as alleged.

Goode discloses, at most, that:

At step 226, the routine assigns a PIN to the terminal. This **PIN allows access to a subset of the services provided by the information distribution system**. At step 228, the services that are accessible using the default PIN are defined as default parameters. These default parameters may include **content restrictions that do not allow access to movies exceeding a certain MPAA rating or restrict access to movies in a certain genre, e.g., adult movies**. Additionally, access may be limited to only children's programs, viewing at only a specific time of day, and to a limited amount that can be spent on services over some arbitrary period of time, e.g., day, month, and the like.

(*Emphasis added*, col. 5, lines 21 – 23). Accordingly, even assuming, *arguendo*, that *Goode* discloses “authorization,” the only access provided via such authorization is to “services,” and not to a “communications path” as recited in claim 1.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) any type of authentication mechanisms as part of the described system.

Accordingly, claim 1 is allowable for at least the reason that neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests “logic to authorize the subscriber to access a second communications path” as recited in independent claim 1.

Furthermore, claim 1 is patentable over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for the additional and independent reason that neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests the feature of “logic to authorize the subscriber to access a second communications path *responsive to the first communications path authorization*,” as recited in independent claim 1.

As discussed above, even assuming, *arguendo*, that *Goode* discloses “authorization,” the only access provided via such authorization is to “services,” and not to a “communications path” as recited in claim 1.

Kawashima does not appear to disclose any type of authorization at all.

Majeti discloses, at most, that “processor 48 contains a database containing records relating to each user (subscriber) served by the split-channel bridging unit and provides information required by router 42 in order to permit the router to properly route data to the appropriate destination cable television head-end unit.”(Col. 4, line 64 – col. 5, line 2). Even assuming, *arguendo*, that such a feature discloses authorization to a “first communication path”

as claimed, there is no second authorization of “a second communications path” at all, and certainly no second authorization “to access the second communications path responsive to the first communications path authorization by comparing second subscriber authentication information with at least part of the at least one database” as recited in claim 1.

Accordingly, neither *Majeti*, *Kawashima*, nor *Goode* disclose, individually or in combination, more than one authorization to access a communications path, and there is no apparent suggestion that a feature of one a second path authorization being “responsive to” a first path authorization would be obvious to one skilled in the art. Accordingly, even if combined, the references can not be said to disclose, teach, or suggest the feature of “logic to authorize the subscriber to access a second communications path responsive to the first communications path authorization,” as recited in independent claim 1.

For at least these reasons, Applicants submit that independent claim 1 is allowable over the proposed combination of *Majeti*, *Kawashima*, and *Goode*. Furthermore, because claim 1 is believed to be allowable, dependent claims 2-13, 33-34, and 43 are allowable for at least the same reasons.

Independent Claim 14

Independent claim 14 recites:

14. A method of authorizing a subscriber to access a first communications path and a second communications path, the first communications path and the second communications path utilized in conveying data between a head end and the subscriber of a cable data network, the method comprising the steps of:

authorizing the subscriber to access the first communications path by comparing first subscriber authentication information with at least part of at least one database; and

authorizing the subscriber to access the second communications path responsive to the first communications path authorization by comparing second subscriber authentication information with at least part of the at least one database.

(*Emphasis Added*). Applicants respectfully submit that claim 14 patently defines over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that the proposed combination fails to disclose, teach or suggest the features emphasized in bold text above. MPEP §2143.03.

For example, neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests the feature of “**authorizing the subscriber to access the second communications path**” as recited in independent claim 14.

The Office Action apparently agrees with Applicants’ remarks in the Amendment of September 8, 2005 that *Majeti* does not disclose authorizing “access” to a second communications path based on “second subscriber authentication information” as claimed.

However, the Office Action now alleges that *Goode* “provides a second authentication process where the user, if not authorized to access a specific portion of connectivity (restricted movie), must provide subscriber authentication information in the form a PIN in order to be authorized to used [sic] the second communications path (the path required to receive the movie).” (Office Action, pg. 5).

Applicants submit that authorizing access to “a second communications path” as recited in claim 14 is not the same as authorizing “access to the requested service” (col. 6, line 55 – 56), such as a “restricted movie,” to be delivered using the path as alleged.

Goode discloses, at most, that:

At step 226, the routine assigns a PIN to the terminal. This ***PIN allows access to a subset of the services provided by the information distribution system.*** At step 228, the services that are accessible using the default PIN are defined as default parameters. These default parameters may include ***content restrictions that do not allow access to movies exceeding a certain MPAA rating or restrict access to movies in a certain genre, e.g., adult movies.*** Additionally,

access may be limited to only children's programs, viewing at only a specific time of day, and to a limited amount that can be spent on services over some arbitrary period of time, e.g., day, month, and the like.

(*Emphasis added*, col. 5, lines 21 – 23). Accordingly, even assuming, *arguendo*, that *Goode* discloses “authorization,” the only access provided via such authorization is to “services,” and not to a “communications path” as recited in claim 14.

In addition, *Kawashima* does not disclose, teach, or suggest (and the Office Action does not allege *Kawashima* discloses, teaches, or suggests) any type of authentication mechanisms as part of the described system.

Accordingly, claim 14 is allowable for at least the reason that neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests “logic to authorize the subscriber to access a second communications path” as recited in independent claim 14.

Furthermore, claim 14 is patentable over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for the additional and independent reason that neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests the feature of “authorizing the subscriber to access the second communications path *responsive to the first communications path authorization*,” as recited in independent claim 14.

As discussed above, even assuming, *arguendo*, that *Goode* discloses “authorization,” the only access provided via such authorization is to “services,” and not to a “communications path” as recited in claim 14.

Kawashima does not appear to disclose any type of authorization at all.

Majeti discloses, at most, that “processor 48 contains a database containing records relating to each user (subscriber) served by the split-channel bridging unit and provides information required by router 42 in order to permit the router to properly route data to the

appropriate destination cable television head-end unit.”(Col. 4, line 64 – col. 5, line 2). Even assuming, *arguendo*, that such a feature discloses authorization to a “first communication path” as claimed, there is no second authorization of “a second communications path” at all, and certainly no second authorization “to access the second communications path responsive to the first communications path authorization by comparing second subscriber authentication information with at least part of the at least one database.”

Accordingly, neither *Majeti*, *Kawashima*, nor *Goode* disclose, individually or in combination, more than one authorization to access a communications path, and there is no apparent suggestion that a feature of one a second path authorization being “responsive to” a first path authorization would be obvious to one skilled in the art. Accordingly, even if combined, the references can not be said to disclose, teach, or suggest the feature of “authorizing the subscriber to access the second communications path responsive to the first communications path authorization,” as recited in independent claim 14.

For at least these reasons, Applicants submit that independent claim 14 is allowable over the proposed combination of *Majeti*, *Kawashima*, and *Goode*. Furthermore, because claim 14 is believed to be allowable, dependent claims 15-20, 35-36, and 44 are allowable for at least the same reasons.

Independent Claim 21

Independent claim 21 recites:

21. An apparatus utilized in authorizing a subscriber to access a cable data network at a first level of service and a second level of service, the cable data network providing connectivity between a head end and the subscriber, comprising:

logic configured to authorize the subscriber to access the cable data network at the first level of service by comparing first subscriber authentication information with at least part of at least one database; and

logic configured to authorize the subscriber to access the cable data network at the second level of service responsive to the first level of service authorization by comparing second subscriber authentication information with at least part of the at least one database.

(*Emphasis Added*). Applicants respectfully submit that claim 21 patently defines over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that the proposed combination fails to disclose, teach or suggest the features emphasized in bold text above.

MPEP §2143.03.

Claim 21 is patentable over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests the feature of “logic configured to authorize the subscriber to access the cable data network at the second level of service ***responsive to*** the first level of service authorization” as recited in independent claim 21.

Applicants have reviewed each of *Majeti*, *Kawashima*, and *Goode*, and fail to find that any of the alleged authorizations are performed having a second authorization that is “responsive to” the first authorization. Rather, even assuming, *arguendo*, that *Majeti*, *Kawashima*, or *Goode* disclose any of the claimed authorizations as alleged, such authorizations are performed independently.

Accordingly, neither *Majeti*, *Kawashima*, nor *Goode* disclose, individually or in combination, more than one authorization to access the cable data network, and there is no apparent suggestion that a feature of one authorization being “responsive to” a second authorization would be obvious to one skilled in the art. Accordingly, even if combined, the references can not be said to disclose, teach, or suggest the feature of “logic configured to

authorize the subscriber to access the cable data network at the second level of service responsive to the first level of service authorization” as recited in independent claim 21.

For at least these reasons, Applicants submit that independent claim 21 is allowable over the proposed combination of *Majeti*, *Kawashima*, and *Goode*. Furthermore, because claim 21 is believed to be allowable, dependent claims 22-24, 37-38, and 45 are allowable for at least the same reasons.

Independent Claim 25

Independent claim 25 recites:

25. A method of authorizing a subscriber to access a cable data network at a first level of service and a second level of service, the cable data network providing connectivity between a head end and the subscriber, the method comprising the steps of:

authorizing the subscriber to access the cable data network at the first level of service by comparing first subscriber authentication information with at least part of at least one database; and

authorizing the subscriber to access the cable data network at the second level of service responsive to the first level of service authorization by comparing second subscriber authentication information with at least part of the at least one database.

(*Emphasis Added*). Applicants respectfully submit that claim 25 patently defines over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that the proposed combination fails to disclose, teach or suggest the features emphasized in bold text above.

MPEP §2143.03.

Claim 25 is patentable over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests the feature of “authorizing the subscriber to access the cable data network at the second level of service ***responsive to*** the first level of service authorization” as recited in independent claim 25.

Applicants have reviewed each of *Majeti*, *Kawashima*, and *Goode*, and fail to find that any of the alleged authorizations are performed having a second authorization that is “responsive to” the first authorization. Rather, even assuming, *arguendo*, that *Majeti*, *Kawashima*, or *Goode* disclose any of the claimed authorizations as alleged, such authorizations are performed independently.

Accordingly, neither *Majeti*, *Kawashima*, nor *Goode* disclose, individually or in combination, more than one authorization to access the cable data network, and there is no apparent suggestion that a feature of one authorization being “responsive to” a second authorization would be obvious to one skilled in the art. Accordingly, even if combined, the references can not be said to disclose, teach, or suggest the feature of “authorizing the subscriber to access the cable data network at the second level of service responsive to the first level of service authorization” as recited in independent claim 25.

For at least these reasons, Applicants submit that independent claim 25 is allowable over the proposed combination of *Majeti*, *Kawashima*, and *Goode*. Furthermore, because claim 25 is believed to be allowable, dependent claims 26-28, 39-40, and 46 are allowable for at least the same reasons.

Independent Claim 29

Independent claim 29 recites:

29. A method of logging into a cable data network that has a plurality of levels of service, the method comprising the steps of:

logging into the cable data network at a first level of service by sending first subscriber authentication information to at least one validation agent; and

logging into the cable data network at a second level of service ***responsive to logging into the network at a first level of service*** by sending second subscriber authentication information to at least one validation agent.

(*Emphasis Added*). Applicants respectfully submit that claim 29 patentably defines over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that the proposed combination fails to disclose, teach or suggest the features emphasized in bold text above.

MPEP §2143.03.

Claim 29 is patentable over the proposed combination of *Majeti*, *Kawashima*, and *Goode* for at least the reason that neither *Majeti*, *Kawashima*, nor *Goode* discloses, teaches or suggests the feature of “logging into the cable data network at a second level of service **responsive to** logging into the network at a first level of service” as recited in independent claim 29.

Applicants have reviewed each of *Majeti*, *Kawashima*, and *Goode*, and fail to find that any of the references include a first “logging into the cable data network” while also having a second “logging into the cable data network” that is “responsive to” the first. Rather, even assuming, *arguendo*, that *Majeti*, *Kawashima*, or *Goode* disclose any of the claimed steps of “logging into the cable data network” as alleged, such steps are performed independently.

Accordingly, neither *Majeti*, *Kawashima*, nor *Goode* disclose, individually or in combination, logging into the cable data network at a second level of service “responsive to” logging into the network at a first level of service, nor is there any apparent suggestion that logging into the cable data network at a second level of service “responsive to” logging into the network at a first level of service, would be obvious to one skilled in the art. Accordingly, even if combined, the references can not be said to disclose, teach, or suggest the feature of “logging into the cable data network at a second level of service responsive to logging into the network at a first level of service” as recited in independent claim 29.

For at least these reasons, Applicants submit that independent claim 29 is allowable over the proposed combination of *Kawashima* and *Majeti*. Furthermore, because claim 29 is believed

to be allowable, dependent claims 30-32, 41-42, and 47 are allowable for at least the same reasons.

Dependent Claims 2-13, 15-20, 22-24, 26-28, and 30-47

Applicants submit that the §103 rejection to dependent claims 2-13, 15-20, 22-24, 26-28, and 30-47 is rendered moot in light of any of the arguments made above and, therefore, claims 2-13, 15-20, 22-24, 26-28, and 30-47 are allowable as a matter of law for at least the reason that claims 2-13, 15-20, 22-24, 26-28, and 30-47 contains all the features and element of its corresponding independent claim.

Additionally, with respect to claim 33, Applicants hereby traverse the finding of inherency. Specifically, the Office Action indicates that “if a user is not authorized to use the system, he/she will inherently not be permitted to access the system.” (Office Action, pg. 8).

However, claim 33 (for example) recites that “the data delivery is restrained until authorization is completed.” The finding of inherency apparently assumes that all systems restrain data delivery “until authorization is completed.” However, Applicants submit that, depending on the type of system, some may temporarily allow data delivery until authorization is complete. Accordingly, the finding of inherency is improper. In that the Office Action applies the same rejection to claims 34 – 42, Applicants also traverse the recited inherency of these claims for at least the same reason.

With respect to claim 47, Applicants respectfully submit that a *prima facie* case of obviousness has not been made at all. That is, the rejection of claim 47 indicates only that “Referring to claim 47, see rejection of claim 47.”

Accordingly, Applicants submit that, should Applicants remarks be non-persuasive in overcoming the rejections, any future Office Action should be made non-final and properly identify the basis of the rejection of dependent claim 47.

II. References Made of Record

The references made of record have been considered, but are not believed to affect the patentability of the presently pending claims.

CONCLUSION

The Applicants respectfully submit that all claims are now in condition for allowance, and request that the Examiner pass this case to issuance. If, in the opinion of the Examiner, a telephonic conference would expedite the examination of this matter, the Examiner is invited to call the undersigned attorney at (770) 933-9500.

Any other statements in the Office Action that are not explicitly addressed herein are not intended to be admitted. In addition, any and all findings of inherency are traversed as not having been shown to be necessarily present. Furthermore, any and all findings of well-known art and official notice, or statements interpreted similarly, should not be considered well known since the Office Action does not include specific factual findings predicated on sound technical and scientific reasoning to support such conclusions.

No fee is believed to be due in connection with this response. If, however, any fee is deemed to be payable, you are hereby authorized to charge any such fee to Deposit Account No. 20-0778.

Respectfully submitted,



Christopher D. Guinn
Registration No. 54,142

THOMAS, KAYDEN,
HORSTEMEYER & RISLEY, L.L.P.
Suite 1750
100 Galleria Parkway N.W.
Atlanta, Georgia 30339
(770) 933-9500